has also been refused application merely to subject property to taxation. See *McCurdy v. McCurdy* (1908) 197 Mass. 248, 250, 83 N. E. 881, 882. It would seem that the doctrine should not be invoked by an owner under contract to sell in order to exempt him from prosecution for unlawful use of the land or from liability for injuries resulting from its negligent condition. See *In re Baker's Estate* (1910, Surr. Ct.) 124 N. Y. Supp. 827, 828. If this be because the prosecution is an action at law, then logically in every case where suit is necessary to collect the succession tax the doctrine cannot be invoked in favor of the state. And courts which repudiate the doctrine so hold. *Matter of Estate of Swift, supra; cf. Connell v. Crosby, supra;* see Ross, *Inheritance Taxation* (1912) par. 54. But Iowa provides for enforcement of the tax by action at law. Supp. 1913, Code of Iowa, sec. 1481 a 17. In the present case the property was subject to tax in Nebraska as well as in Iowa. But it would seem that the Iowa tax could be defeated by the legatees (if *sui juris*) electing to take the land and thus preventing the conversion. Legatees have such a power of election. *Huber v. Donoghue* (1891, Ch.) 49 N. J. Eq. 125, 23 Atl. 495; see *Mellen v. Mellen* (1893) 139 N. Y. 210, 220, 34 N. E. 925, 928. If the doctrine is not universally applied, and the rule of the instant case is sound, the result may be double, single, or no taxation, depending on the law of the situs and the forum; if it is universally applied, or universally repudiated, the result is single taxation. But it is to be remembered that the courts of the situs have the *power* to disregard the rulings of the court of the domicil on equitable conversion, by ruling independently on an instrument purporting to have that effect, and thereby *effectively* re-regulating the succession. *Clarke v. Clarke* (1900) 178 U. S. 186, 20 Sup. Ct. 873. Should the law of the situs thus effectively refuse to recognize such conversion, it is hard to find justice in a tax laid by the domicil as if on personalty. If such tax is to be sustained, it should be by reference to and incorporation of the admittedly controlling law of the situs. This fact, together with the fictional nature both of the doctrine itself and of the rule *mobilia sequuntur personam,* lends much reason to the view that "it was never intended by the law to tax a theory having no real substance behind it." See *Matter of Curtis* (1894) 142 N. Y. 219, 223, 36 N. E. 887, 888.

TORTS—CIVIL CONSPIRACY—PHYSICIANS.—The defendant members of a medical association, an organization which no physician professing an exclusive system of medicine could join, agreed among themselves not to assist the plaintiff, an osteopath, in surgery. The plaintiff prayed that the defendants be enjoined from carrying out the agreement. *Held,* that an injunction should not be granted, since the defendants acted in good faith and with no intent to injure the plaintiff. *Harris v. Thomas* (1920, Tex.) 217 S. W. 1068.

The weight of authority holds that there is no such thing as a civil action for conspiracy. But an action for damages caused by acts resulting from a formed conspiracy is allowed. *Cf. Jones v. Monson* (1909) 137 Wis. 478, 119 N. W. 179; *cf. Bowen v. Matheson* (1867) 96 Mass. 499. It has been held that unless the acts which the conspirators combined to do would be tortious if done by one of them, they do not become tortious by reason of the conspiracy. *Green v. Davies* (1905) 182 N. Y. 499, 75 N. E. 536; *Porter v. Mack* (1901) 50 W. Va. 581, 40 S. E. 459; see (1916) 25 YALE LAW JOURNAL, 248. There is a tendency among modern legal writers to contend that there is a tort of conspiracy, and that the conspiracy itself is the gist of the action. See Burdick, *Conspiracy as a Crime and as a Tort* (1907) 7 COL. L. REV. 229; (1908) 8 *ibid.,* 117; Charlesworth, *Conspiracy as a Ground of Liability in Tort* (1920) 36 LAW QUART. REV. 38. However, there would seem to be very little reason or authority to back up this theory. Ordinarily the only difference between the civil "liability" for acts done in pursuance of a conspiracy and for acts of the same character done by a

single person is in the greater probability that such acts where done by many in combination will cause injury. See *Toledo, A. A. & N. M. Ry. v. Pennsylvania Co.* (1893, C. C. N. D. Oh.) 54 Fed. 730, 739. This is illustrated by the analogy of cases of nuisance. One wheelbarrow standing in a street may cause no injury, but fifty standing there probably will. *Cf. Thorpe v. Brumfitt* (1873, Eng.) 8 Ch. 650. Thus it would seem that the only legal effect of a conspiracy is the aggravation of damages caused by the acts done in pursuance thereof. The instant case may further find support on the ground that the defendants were justified in their action, even had they intended injury to the plaintiff, there being still question whether in law osteopaths are physicians. See *Keiningham v. Blake* (1919, Md.) 109 Atl. 65 (code section denying to municipal officers authority to accept birth or death certificate from osteopath sustained). Probably the same situation would maintain as to a chiropractor. See (1918) 28 YALE LAW JOURNAL, 97; but see *ibid.*, 615.

TORTS—ILLEGAL ACTS—VIOLATION OF SUNDAY LAWS.—The plaintiff and the defendant were hunting together on Sunday in violation of a state statute. Mistaking the plaintiff's hat for a squirrel, the defendant shot and injured the plaintiff. The plaintiff sued for damages. *Held*, that the plaintiff should recover without proof of negligence, since the shooting was a voluntary, unlawful act. *White v. Levarn* (1918, Vt.) 108 Atl. 564.

In order that a violation of a statute may operate to afford a right to damages, the violation must be the proximate cause of the injury. *Lindsay v. Cecchi* (1911) 26 Del. 133, 80 Atl. 523; *Dervin v. Frenier* (1917) 91 Vt. 398, 100 Atl. 760. The question of causal connection is determined to some extent by considering what causal acts the statute was intended to prevent. *Cf. Bourne v. Whitman* (1911) 209 Mass. 155, 95 N. E. 404; *cf. Hyde v. McCreery* (1911) 145 App. Div. 729, 130 N. Y. Supp. 271. The statute forbidding hunting on Sunday is obviously not intended to prevent injuries from hunting accidents, but to provide peace and quiet on Sunday. *Platz v. Cohoes* (1882) 89 N. Y. 219. It has been held that where a plaintiff's cow was run over by a train running on Sunday in violation of a statute, the plaintiff should not recover without proving negligence, the violation of the statute not being the proximate cause of the accident. *Tingle v. Chicago etc. Ry.* (1882) 60 Iowa, 333, 14 N. W. 320. Where a violator of a Sunday law was injured by the negligence of one not a violator, the violation has generally been held not such a contributing cause of the injury as to preclude recovery. *Sutton v. Wauwatosa* (1871) 29 Wis. 21; *Louisville etc. Ry. v. Frawley* (1886) 110 Ind. 18, 9 N. E. 594; *contra, Beachem v. Portsmouth Bridge* (1895) 68 N. H. 382, 40 Atl. 1066; *Day v. Highland St. Ry.* (1883) 135 Mass. 113. The minority doctrine has been changed by statute in Maine and Massachusetts. Me. Rev. St. 1903, ch. 84, sec. 131; Mass. Rev. Laws, 1902, ch. 98, sec. 17. If an act done in violation of a Sunday law is denied to be, for that reason alone, a legally effective cause of an injury which follows it in cases where the Sunday violator is a plaintiff seeking redress for a tort inflicted on him while he was violating the law, it is hard to see on what principle a precisely similar act can acquire the character of legally effective cause, for its illegality alone, merely because the actor is a defendant. *Cf. Hughes v. Atlanta Steel Co.* (1911) 136 Ga. 511, 71 S. E. 934; *cf. Gross v. Miller* (1894) 93 Iowa, 72, 61 N. W. 385. The theories of causation and the public policies involved are identical in the two cases. And a conclusion which thus distinguishes between culpable and contributory causation in illegal acts is doubly hard to understand because of the ordinary rule of *in pari delicto*. The Vermont court has already held that the fact that the plaintiff was working on Sunday in violation of a statute, did not bar recovery for a tort arising from the defendant's negligence. *Hoadley v. International Paper Co.* (1899) 72 Vt. 79, 47 Atl. 169. It had indeed previously held that one